



**CITY COUNCIL  
ATLANTA, GEORGIA**

**02-*R*-1346**

BY FINANCE/EXECUTIVE

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN APPROPRIATE CONTRACTUAL AGREEMENT WITH SIERRA CONSTRUCTION COMPANY FOR FC-7405-02, AUTOMATED EXTERNAL DEFIBRILLATORS (AED) ON BEHALF OF THE DEPARTMENT OF AVIATION IN AN AMOUNT NOT TO EXCEED \$675,369.00. ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM FUND, ACCOUNT AND CENTER NUMBER 2H21 575001 W32003.**

**WHEREAS, the City of Atlanta did solicit bids for FC-7405-02, Automated External Defibrillators (AED) on behalf of the Department of Aviation; and**

**WHEREAS, the General Manager of the Department of Aviation and the Director of the Bureau of Purchasing and Real Estate have recommended that the contract for FC-7405-02, Automated External Defibrillators (AED) be awarded to the third lowest and most responsive bidder, Sierra Construction Company, for a total base bid amount of \$675,369.00;**

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor be and is hereby authorized to enter into an appropriate contractual agreement with Sierra Construction Company. for FC-7405-02, Automated External Defibrillators, on behalf of the Department of Aviation, for a total not to exceed amount of \$675,369.00.**

**BE IT FURTHER RESOLVED, that the Director of the Bureau of Purchasing and Real Estate be and is hereby directed to prepare an appropriate contractual agreement for execution by the Mayor, to be approved by the City Attorney as to form.**

**BE IT FURTHER RESOLVED, that this agreement shall not become binding on the City and the City shall incur no liability upon same until such contract has been executed by the Mayor and delivered to the contracting party.**

**BE IT FINALLY RESOLVED, that all contracted work shall be charged to and paid from Fund Account and Center Number: 2H21 575001 W32003.**

(BPRE-CRC-071502)

A true copy,

*Rhonda Daughin Johnson*  
Municipal Clerk, CMC

ADOPTED by the Council  
APPROVED by the Mayor

AUG 19, 2002  
AUG 26, 2002



Shirley Franklin  
MAYOR

**CITY OF ATLANTA**  
55 Trinity Avenue, SW, Suite 1790  
Atlanta, GA 30303-0307  
(404) 330-6204 • Fax (404) 658-7705  
Internet Home Page: [www.ci.atlanta.ga.us](http://www.ci.atlanta.ga.us)

DEPARTMENT OF  
ADMINISTRATIVE SERVICES

Deborah Scott Brooks  
Acting Commissioner

BUREAU OF PURCHASING  
& REAL ESTATE

Felicia Strong-Whitaker  
Purchasing Agent

**Via Facsimile (703) 317-4265 and Certified U.S. Mail**

September 23, 2002

Mr. Jeffrey L. Davis  
Manager of Engineering Services  
ADT Security Services, Inc.  
3601 Eisenhower Avenue  
Alexandria, Va. 22304

**Re: FC-7405-02; Automated External Defibrillators-Phase 1  
Hartsfield Atlanta International Airport**

Dear Mr. Davis;

This letter is in response to your letter dated September 6, 2002, received by the City on September 11, 2002, wherein ADT protests the award of FC-7405-02; Automated External Defibrillators-Phase 1 Hartsfield Atlanta International Airport ("AED"). For all the reasons stated more fully below, City sustains your protest and hereby serves notice of its intent to rescind the award of the contract to Sierra.

**I. Factual Background**

As you are aware, on or about June 26, 2002, the City accepted bids for the AED Project at Hartsfield International Airport. The scope of work for this project was to furnish and install AEDs throughout Hartsfield Atlanta International Airport and the Central Passenger Terminal Complex. Initially, the City determined that Sierra Construction Co. ("Sierra") was the most responsive and responsible bidder to the AED Project, price and other factors considered. Thus, the City Council approved the award of the AED contract to Sierra. However, in light of the merits of ADT's recent protest of the award, the City is now reconsidering its position and the award to Sierra.

**II. Responsiveness of Sierra's bid**

City Section 2-1166 of the Procurement Code defines a responsive bidder as a "Person who has submitted a bid or offer which conforms in all material respects to the invitation for bids or request for proposal". After considering all the facts and circumstances, the City has now determined that Sierra's bid failed to conform in all material respects to the invitation to bid on the AED Project.

First, the bid documents for the AED Project contained a required bid submittal check sheet. This list sets forth a list of the required attachments that would assist the City in determining a bidders ability to perform the terms and conditions of the AED project. The City has determined that Sierra failed to submit several required attachments.

Second, the bid documents also required the bidder to demonstrate the its ability to obtain the required insurance and bonds from companies satisfactory to the City. Upon review of Sierra's Bonding Capacity Form, rather than list Sierra's bonding capacity, Sierra stated "To Be Determined". Bonding Capacity is a material aspect of this project. Thus, simply stating "To Be Determined" in responses to the City's request for one's Bonding Capacity is unacceptable to the City.

Finally, as you are aware, the scope of work for this project was to furnish and install AEDs throughout Hartstield Atlanta International Airport and the Central Passenger Terminal Complex. Upon careful review of the submitted bid, the City has determined that Sierra failed to bid on the installation cost, a major component of this project.

As Sierra has failed to submit several of the required attachments and provide the City with sufficient information regarding its bonding capacity, the City has now determined that Sierra's bid to the AED project was non-responsive.

### **III. Bid Tabulation**

As you are aware, Sierra submitted a price in the amount of \$291,470.00 for the AED equipment. However, upon calculating the sum of all of the extended amounts, it is apparent that the totals equal \$461,470.00. However, the total base bid, is listed as \$675,368.00. Thus, there exists a discrepancy between the sum of the extended amounts and the bid total.

Instructions to Bidders set forth the guidelines rules for, among other things, the rules for Bid Evaluations. Specifically 10, subsection c provides that:

All extension of the unit prices shown and the subsequent addition of extended amounts may be verified by the City. In the event of a discrepancy between the unit price bid and the extension, the unit price will be deemed intended by the Bidder and the extension shall be adjusted. In the event of a discrepancy between the sum of the extended amounts and the bid total, the sum of the extended amounts shall govern

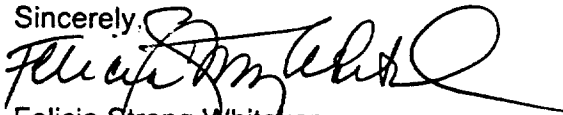
The instructions to the bidders clearly provides that in such instances, the sum of the extended amount shall govern. Thus, per this rule, the City should have accepted total price of Four Hundred and Sixty One Thousand, Four Hundred and Seventy Dollars as Sierra's bid for the AED project. Upon further review, the City has determined that since Sierra failed to bid on the installation costs, Sierra's bid for the AED project was in fact non-responsive.

#### IV. Responsibility

ADT contends that Sierra is a non-responsible bidder for the AED project. The Procurement Code also defines a responsible bidder. Specifically, 2-1186 defines a responsible bidder as "[A] person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability capacity, facilities, equipment and credit which will ensure good faith performance." ADT has correctly pointed out that Sierra's bid is non-responsive for its failure to submit the requisite documentation.

For the above stated reasons, ADT's protest is sustained and the City will communicate with Sierra its intentions to rescind the award. We trust this is responsive to your query. Should you have any questions, please do not hesitate to contact this office.

Sincerely,



Felicia Strong Whitaker  
Purchasing Agent  
Bureau of Purchasing and Real Estate

CC: Ben DeCosta, Aviation General Manager  
Jerolyn Webb Ferrari, Senior Assistant City Attorney  
Stacy Y. Cole, Assistant City Attorney



Shirley Franklin  
MAYOR

**CITY OF ATLANTA**  
55 Trinity Avenue, SW, Suite 1790  
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DEPARTMENT OF  
ADMINISTRATIVE SERVICES

Deborah Scott Brooks  
Acting Commissioner

BUREAU OF PURCHASING  
& REAL ESTATE

Felicia Strong-Whitaker  
Purchasing Agent

**Via Facsimile (770) 989-7165 and Certified U.S. Mail**

September 23, 2002

Mr. Greg Hogle  
Sierra Construction Co.  
1341 Capital Circle Suite A  
Marietta, Georgia 30067

**Re: Notice of Non-Responsiveness  
FC-7405-02; Automated External Defibrillators-Phase 1  
Hartsfield Atlanta International Airport**

Dear Mr. Hogle:

On or about September 11, 2002, the City received a protest from ADT Security Services Inc. ("ADT") wherein ADT protests the award of FC-7405-02, Automated External Defibrillators-Phase 1 Hartsfield Atlanta International Airport ("AED") to Sierra Construction Co. ("Sierra"). ADT's protest raises several issues regarding Sierra's responsiveness to the AED solicitation. In light of ADT's protest, the City carefully analyzed and reviewed Sierra's bid and the basis for the award of this project. Thus, upon investigation of the issues raised in ADT's protest, for all the reasons explained more fully below, you are hereby notified that the City has determined that Sierra's bid to the AED project is non-responsive. Accordingly, the City intends to rescind the award of the contract to Sierra.

### **I. Factual Background**

As you are aware, on or about June 26, 2002, the City received bids for the External Defibrillator Project at Hartsfield International Airport. The scope of work for this project was to furnish and install AEDs throughout Hartsfield Atlanta International Airport and the Central Passenger Terminal Complex. Sierra submitted a total base bid in the amount of Six Hundred Seventy-Five Thousand, Three Hundred and Sixty Eight Dollars to the AED project. Additionally, Sierra listed the amount for the AEDs as Two Hundred and Ninety One Thousand Four Hundred and Seventy as the amount for the L.S. Automated External Defibrillators. On or about July 12, 2002, via facsimile and per a telephone conversation, Sierra informed the City that its submitted bid contained an error. Specifically, Sierra stated that the amount listed for the AED was for the *equipment only* and not the costs of installation. Sierra further stated that that correct amount for the AED should have been Five Hundred and Five Thousand Three Hundred and Sixty Eight Dollars. The City noted the change and did not correct the total base bid

amount initially submitted by Sierra. The City Council approved the initial total base bid in the amount of \$675,368.00

The solicitation documents for the AED project contained a Required Bid Submittal Check Sheet, which lists all the required attachments, which must be submitted along with the bid to the City. Sierra failed to submit all of the required attachments. Finally, Sierra failed to provide the City with the required bonding information.

## **II. Sierra's bid is Non-Responsive**

In light of ADT's protest, the City carefully analyzed and reviewed Sierra's bid for this project. Section 2-1166 of the Procurement Code defines a responsive bidder as a "Person who has submitted a bid or offer which conforms in all material respects to the invitation for bids or request for proposal". Thus, upon review of all the facts and circumstances, it appears that Sierra's bid failed to conform in all material respects to the invitation to bid on the AED project. Thus, the City has determined that Sierra's bid is non-responsive in several areas.

### **a. Failure to submit required attachments**

The Bid Documents for the AED project contained a required bid submittal check sheet. This list sets forth a list of the required attachments that would assist the City in determining Sierra's ability to perform the terms and conditions of the AED project. Specifically, the Bid Documents required all bidders to submit the several documents, which would aid the City in determining a bidder's ability to satisfy the technical and financial specifications for this project. Specifically, the bidders were required to submit in the form of attachments the following items:

- (1) Bid Bond;
- (2) Lower Tier Experience List;
- (3) Project Organization and Work Plan; and
- (4) Safety Program, Safety and Health History

The instructions to the bidders clearly state that the attachments must be completed and submitted along with the bid to the City. Additionally, the instructions further provide a cautionary note to the bidder to "Please check to make sure that these submittals are in the envelope before it is sealed." Thus, the City repeatedly instructed the bidders to complete and include all of the listed attachments with any submitted bid. Nevertheless, despite such clear instructions, Sierra failed to submit Appendix B, Form B, Lower-Tier Experience List; Appendix B Form D-Project Organization and Work Plan; and Form E, Safety Program, Safety and Health History to the City. Each of the required documents supplied vital information to the City. By failing to submit all of the required documents, Sierra's bid failed to conform in material respects to the invitation to bid.

### **b. Incomplete Bonding Information**

The Bid documents required the bidder to demonstrate the bidder's ability to obtain the required insurance and bonds from companies satisfactory to the City. Upon review of

Sierra's Bonding Capacity Form, rather than list Sierra's bonding capacity, Sierra stated "To Be Determined". Bonding Capacity is a material aspect of this project. A bidder's ability to furnish a performance and payment bond for the work under the contract is of grave importance to the City. This directly relates to the bidder's financial capacity to not only perform the work but also to protect the City's interest should the bidder fail to pay the subcontractors. Thus, simply stating "To Be Determined" in responses to the City's request for one's Bonding Capacity is unacceptable to the City.

**c. Failure to bid on the installation costs**

As you are aware, the scope of work for this project was to furnish and install AEDs throughout Hartfield Atlanta International Airport and the Central Passenger Terminal Complex. On or about July 12, 2002, via facsimile and per a telephone call nearly two weeks after the bid due date, Sierra informed the City that it inadvertently listed an incorrect amount on its bid. Sierra further indicated that the amount listed was for the equipment only and the listed price did not include installation costs. Initially, since the total bid amount did not change, the City incorrectly elected to allow Sierra to submit a price for installation. Upon further review, however, it is clear that there exists no simple mathematical mistake or clerical error but a substantial error in price. It appears that through Sierra's own admission the new submitted price contains both the installation price as well as the equipment price. Such actions however are in violation of the Procurement Code and this is not the kind of minor informality that would ordinarily be waived. Specifically, Section 2-1188(g) entitled "Bid acceptance" provides "Bids shall be unconditionally accepted without alteration or correction, except as authorized by in this article...." In this instance, Sierra failed to submit a price for a major component to this project. Thus, Sierra attempted to correct its submitted bid to reflect all of its prices associated with this project. Such actions are clearly in violation of Section 2-1188(g). Additionally, installation price is a major component to this project. Sierra failed to submit a bid that conformed in all material respects to the invitation for bids on the AED project.

**III. Bid Tabulation**

When Sierra originally acknowledged its own bidding error in July, 2002, the City should have either declared Sierra's bid as non-responsive or accepted Sierra's bid for the properly calculated amount of all of the sums of the extended items rather than the listed total base bid.

Instructions to Bidders set forth the guidelines rules for, among other things, the rules for Bid Evaluations. Specifically 10, subsection c provides that:

All extension of the unit prices shown and the subsequent addition of extended amounts may be verified by the City. In the event of a discrepancy between the unit price bid and the extension, the unit price will be deemed intended by the Bidder and the extension shall be adjusted. In the event of a discrepancy between the sum of the extended amounts and the bid total, the sum of the extended amounts shall govern.

Here, the extended amount for the AED was \$291, 470.00. The sum of the extended amounts equals \$461,470.00. The total base bid, however, is listed as \$675, 368.00, thus, there exists a discrepancy between the sum of the extended amounts and the bid total. The instruction to the bidders clearly provides that in such instances, the sum of the extended amount shall govern. Thus, per this rule, the City should have accepted Sierra's price of \$461,470.00 or declared the bid non-responsive. Again, since Sierra failed to submit a price for a major component of the project, the City has determined that Sierra's bid is in fact non-responsive and should have been rejected.

#### **IV. Responsibility**

Section 2-1186 of the Procurement Code defines a responsible bidder as "[A] person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability capacity, facilities, equipment and credit which will ensure good faith performance." In this instance, the City reviewed several factors when determining the responsibility of bidders to the AED project. Specifically, the City reviewed, among other things, Form D, Project Organization and Work Plan, Lower Tier Experience Statement, and Safety Program.

As you are aware, generally a project organization plan identifies the dates for completion of the work. In addition, such a document would indicate the bidder's pre-identified critical milestones and the anticipated dates of completion for various phases. Sierra failed to submit a detailed plan outlining the critical dates of completion. Without such a plan, the City is unaware of Sierra's anticipated work schedule, construction plan, or the completion of anticipated construction milestones.


The Lower Tier Experience Statement sets forth, among other things, the name and a statement of experience of the subcontractors that will be utilized by Sierra for this project. Sierra failed to complete this form and in its response indicated that it will "Submit upon request or award of the contract". Such a response is unacceptable. The work experience of a subcontractor is important to the City. Without such information, the City is unable to determine the years of experience of the subcontractors and their ability to perform work of this nature.

Finally, Sierra also failed to submit a Work Safety Plan. It is extremely important to the City to know the Work Safety history of the bidder and whether or not the bidder adheres to safety requirements when working on a construction project. Sierra failed to submit several critical documents. As Sierra has failed to submit several required documents with its bid, Sierra has not adequately demonstrated its responsibility to perform this project and, therefore, is not entitled to the award.

For all the reasons set for above, the City has determined that Sierra is not the most responsible and responsive bidder for the AED project. Therefore, the City intends to rescind the award of the contract to Sierra.

Should you have any questions, please do not hesitate to contact this office.

Sincerely,

  
Felicia Strong Whitaker  
Purchasing Agent  
Bureau of Purchasing and Real Estate

CC: Ben DeCosta, Aviation General Manager  
Tarik Bezuneh, Risk Manager



# CITY OF ATLANTA

SHIRLEY FRANKLIN  
MAYOR

OFFICE OF CONTRACT COMPLIANCE  
55 TRINITY AVENUE SW, SUITE 1700  
ATLANTA, GEORGIA 30303  
OFFICE (404) 330-8010  
FAX (404) 658-7359

CITY OF ATLANTA  
BUREAU OF PURCHASING  
2002 JUL -2 AM 9:44

June 27, 2002

## MEMORANDUM

To: Felicia Strong Whitaker, Director  
Bureau of Purchasing and Real Estate

From: Hubert Owens   
Contract Compliance Specialist, Principal

Re: Eligible Bidder Status for FC-7405-02, Automated External Defibrillators (AED)  
Phase I

### Company

ADT Security Services, Inc.  
Able/Cal Construction Company  
Aviation Constructors, Inc.  
The Lion's Group, Inc.  
New South Construction  
Sierra Construction Company

### Status

2001-C90  
\* Not Eligible  
2001-C156  
2001-C133  
2001-C296  
2001-C203

\*No application on file as of June 27, 2002.

If you have any questions please contact me at extension 6010 or Angela Snead at extension 6577.

cc: File  
Carolyn Chavis, BPPE



CITY OF ATLANTA  
BUREAU OF PURCHASING

2002 JUL 16 PM 12:56

# CITY OF ATLANTA


SHIRLEY FRANKLIN  
MAYOR

OFFICE OF CONTRACT COMPLIANCE  
55 TRINITY AVENUE SW, SUITE 1700  
ATLANTA, GEORGIA 30303  
OFFICE (404) 330-6010  
FAX (404) 658-7359

July 15, 2002

## MEMORANDUM

TO: Felecia Strong Whitaker, Director  
Bureau of Purchasing and Real Estate

FROM: Hubert Owens   
Contract Compliance Specialist, Principal

RE: Recommendation for FC-7405-02, Automated External Defibrillators  
(AED) Phase I

The Office of Contract Compliance has reviewed the 5 (five) bids submitted for minority and female business enterprise participation. All five companies are eligible bidders under Section 2-1449(a)(2)(C) and have been deemed responsive by the Office of Contract Compliance. For your information the responsive bidders have committed to utilizing AABE's, FBE's and HBE's as indicated below:

ADT Security Services, Inc		
<u>Uptime Electrical Company</u>	<u>AABE</u>	<u>21%</u>
<b>Participation Total</b>		<b>21%</b>

<u>Aviation Constructors, Inc.</u>	
<u>Uptime Electrical Company</u>	<u>AABE 4%</u>
<b>Participation Total</b>	<b>4%</b>
<b>(Non-Responsive)</b>	

<u>Sierra Construction Company, Inc.</u>	
<u>Flying Leap, Inc</u>	<u>FBE 3%</u>
<u>Irons Construction Services</u>	<u>AABE 16%</u>
<u>Uptime Electric</u>	<u>AABE 7%</u>
<b>Participation Total</b>	<b>26%</b>

July 15, 2002  
Felicia Strong Whitaker  
Page 2

<u>New South Construction</u>	
Signworks	FBE 1.2%
Uptime Electrical	AABE 47.5
Participation Total	48.7%

<u>The Lions Group, Inc.</u>	
Precision 2000, Inc.	HBE 15%
Hardeman Electric, Inc.	AABE 5%
Participation Total	20%

If you have any questions please contact me at (404) 330-6010.

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cc: File  
Carolyn Chavis, BPRE

**CAROLYN CHAVIS,  
CONTRACTING OFFICER**

**DATE: JUNE 26, 2002**

**PAGE 1 OF 1**

[illegible]

# TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREGORY PRIDGEON

  
Commissioner's Signature

  
Director's Signature

Originating Department: Department of Aviation

Contact Person: Felicia Strong-Whitaker,

Committee(s) of Purview: Transportation

Council Deadline: September 20, 2002

Committee Meeting Dates(s): October 2, 2002

Full Council Date: October 7, 2002

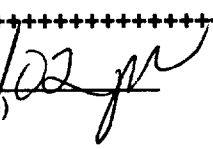
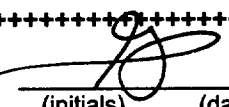
## CAPTION

AUTHORIZING THE MAYOR TO ENTER INTO AN APPROPRIATE CONTRACTUAL AGREEMENT WITH ADT SECURITY SERVICES, INC. FOR FC-7405-02, AUTOMATED EXTERNAL DEFIBRILLATORS (AED) ON BEHALF OF THE DEPARTMENT OF AVIATION IN AN AMOUNT NOT TO EXCEED \$651,200.00. ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM FUND, ACCOUNT AND CENTER NUMBER: 2H21 575001 W32003; AND TO RESCIND RESOLUTION 02-R-1346 IN ITS ENTIRETY.

## BACKGROUND

## FINANCIAL IMPACT (if any)

### Mayor's Staff Only

Received by Mayor's Office: 10/4/02  (date) Reviewed by:  (initials) (date)

Submitted to Council: \_\_\_\_\_  
(date)

Action by Committee: ☐ Approved ☐ Advertised ☐ Held ☐ Amended  
☐ Substitute ☐ Referred ☐ Other